Start Thinking…

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Questions/scenario's taken from the 404/10 training; September 14, 2007.

- Situation: A consultant does a wetland delineation for a client on the 40 acres in the NW quarter of the SE quarter Section 34, Township 2 North, Range 4 East in Baldwin County, AL. The wetlands consist of a thin band of plummer soil on each side, an ephemeral stream that has a very thin band of wet alluvial soil on the banks; the stream originates on the 40 acres. This wetland and ephemeral stream are at the very top of the headwaters of Bushy Creek. This ephemeral stream joins 2 other ephemeral streams over ¼ of a mile away across another forty of another land owner and forms an intermittent stream. This intermittent stream is joined by other ephemeral and intermittent tribs and becomes a perennial stream about 2 miles down stream of the delineation site. Bushy creek flows about 13 miles and joins Dyas Creek which flows about 7 miles before it joins the Perdido River. The Perdido River flows downstream from the confluence with Dyas Creek for about 30 miles where it becomes tidal and therefore navigable pursuant to Section 10 of the River and Harbor Act of 1899.

- Question: How many Approved JD forms does this consultant need to submit to document that the stream and the wetlands are jurisdictional?

- If the answer to question One is one Data Form: How many data forms does a consultant have to do if the consultant delineates a large area, thousands of acres in size such as the entire watershed of Majors Creek down to the Tensaw River?

- Situation: Rock creek originates as an ephemeral stream on Mr. Brown's property off of Randal Avenue in Daphne. There are no adjacent wetlands just mowed lawn that is never fertilized. The average annual flow computes to be just 0.08 cubic per second.

- Question: Does this 'water of the U.S.' have a 'significant Nexus' with TNW of Mobile Bay?

- Question: Does it really have any significant or measureable affect on the chemical, physical and biological integrity of the down stream TNW?

- Question: If so, what measurements or standards does the COE and EPA use to determine what is or is not significant?

- Question: Will it be different in different Districts or up to the discretion of the individual PM?

- Question: When a non-jurisdictional swale or a ditch through upland contributes to a surface water connection between an isolated wetland or adjacent wetland and TNW is the swale or ditch jurisdictional?

- Question: A pond dug in uplands that traps runoff has a discharge pipe that dumps water during heavy rain events into an adjacent wetland of any type of trib. Then is the pond jurisdictional?

- If so, how much water must be discharged or does it even matter?

- Question: Same pond discharges onto uplands and sheet flows over uplands with no OHW mark to the same adjacent wetland, then it is not jurisdictional; yes/no?

- Situation: The interdunal swale wetlands in Gulf Shores and Orange Beach have always been considered jurisdictional because they were Adjacent. They are ground water driven and most have no tributary connection and are surrounded by uplands.

- Question: Under Rapanos will this change? If not, what are the facts or criteria that make the significant nexus?

Time for your Submitted Questions

Any other questions?

Thanks for Coming…final notes.

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